



March 9, 2022

National Freedom of Information Officer  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW (2822T)  
Washington, DC 20460  
(202) 566-1667

***Re: Freedom of Information Act Request – Expedited Processing Requested***

To Whom It May Concern:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the Environmental Protection Agency (“EPA” or “the Agency”) FOIA regulations, set forth at 40 C.F.R. Pt. 2, Friends of the Earth hereby requests all documents, information, records, and materials generated or received by the U.S. Environmental Protection Agency since January 1, 2016 that concern National Pollutant Discharge Elimination System (“NPDES”) permitting for the following ships under EPA’s 2013 “Vessel General Permit for Discharges Incidental to the Normal Operation of Vessels”:

- Serenade of the Seas, Ovation of the Seas, Quantum of the Seas, and Radiance of the Seas, which ships are owned or operated by RCL Cruises Ltd. or Royal Caribbean International;
- Celebrity Millennium, Celebrity Solstice, and Celebrity Eclipse, which ships are owned or operated by Celebrity Cruises, Inc. or RCL Cruises Ltd.; and
- Pride of America, Norwegian Encore, Norwegian Bliss, Norwegian Jewel, and Norwegian Sun, which ships are owned or operated by Norwegian Cruise Lines or NCL (Bahamas) Ltd. or NCL America Inc.

This request includes a request for all copies of all Discharge Monitoring Reports of any kind; annual and other reports submitted pursuant to the Vessel General Permit; sampling or monitoring data for each ship; NPDES permit application materials; correspondence but not email; and any public records that relate to any enforcement actions taken under the Vessel General Permit regarding the ships listed above. This request does not seek email correspondence.

**Expedited Processing Request**

Pursuant to 5 U.S.C. § 552(a)(6)(E)(i) and 40 C.F.R. § 2.104(e), ***Friends of the Earth requests expedited processing of this FOIA request due to our compelling need for the information requested.*** A “compelling need” exists where the requester is “primarily engaged in disseminating information” and can demonstrate an “urgency to inform the public about an actual or alleged Federal government activity.” 40 C.F.R. § 1.104(e)(ii); *see also* 5 U.S.C. § 552(a)(6)(E)(v). Friends of the Earth is a non-profit organization primarily engaged in information dissemination, public education and advocacy on environmental issues. Friends of the Earth will be taking numerous steps to disseminate the requested information to the public, and have a demonstrated and longstanding capacity to do so. We typically disseminate similar information through direct communication to journalists and other members of the media, through press releases, through newsletters to all of our members, through our web sites, through public meetings, and through other legislative and executive fora. The “[a]ctual or alleged Federal government activity” to which the requested information pertains is to EPA’s oversight and review of the monitoring data submitted to it by the cruise industry.

Friends of the Earth urgently needs this information because the particular value of the information and our urgent need to inform the public regarding EPA’s activities. 40 C.F.R. § 2.104(e)(3). The data EPA gathers regarding the cruise industry’s discharges is not readily available to the public and the discharge information is urgently needed. The volume and types of wastewater discharged by the cruise industry continues to grow and with the industry returning from its pause due to the COVID-19 pandemic their discharges will be increasing in volume. Friends of the Earth seeks to use the information obtained to inform and disseminate it to the public for its use in the risk assessment and review of cruise industry behavior. Friends of the Earth seeks to use this information in our ongoing assessment of cruise industry

pollution, including in the review for our annual Cruise Ship Report Card. Friends of the Earth reserves the right to appeal any denial of our request for expedited processing of this request.

We ask that EPA's response comply with the Attorney General's March 2009 FOIA memorandum, reiterating President Obama's directive that in "the face of doubt, openness prevails." Attorney General, Memorandum for Heads of Executive Departments and Agencies at 1 (March 19, 2009) (Attorney General Memorandum). Accordingly, we expect that EPA will apply a presumption in favor of disclosure and consider that it "should not withhold information simply because it may do so legally." *Id.*; see also 40 C.F.R. § 1506.6(f) (noting the intersection of the National Environmental Policy Act and FOIA). We also expect that EPA will act promptly, in keeping with the Attorney General's admonition that the timely disclosure of information "is an essential component of transparency." Attorney General Memorandum at 3.

### **Fee Waiver Request**

As a non-profit organization, Friends of the Earth also requests a waiver of all fees incurred in providing these records. Disclosure of the requested information "is in the public interest because it is likely to contribute significantly to the public understanding of the operation or activities of the government and is not primarily in the commercial interest of the requester." 5 U.S.C. § 552 (a)(4)(A) (iii) and 40 C.F.R. § 2.107(1). If our request for a fee waiver is denied and any expenses associated with this request are in excess of \$25.00, please obtain our approval before any such charges are incurred.

Disclosure of the requested information would inform the public of governmental activities affecting regulation and oversight of the cruise industry and their pollution. Friends of the Earth is a not-for-profit charitable organization with no commercial interest in the information requested and has relevant expertise in the areas of environment and human health and environmental law. Friends of the Earth has a long and active history in addressing threats to human health and the environment posed by the cruise and shipping industries. Friends of the Earth also has additional relevant experience with research, recommendations and proper implementation of the Clean Water Act and other relevant statutes governing water pollution.

Because of the non-profit, public interest nature of Friends of the Earth, we have extremely limited financial resources with which to cover the copying and search expenses of this request. Our main purpose in requesting the documents is to increase public knowledge and participation in the government process so fundamental to the effective working of a democracy.

### **Timely Response and Request for Rolling Release**

Pursuant to 5 U.S.C. § 552(a)(6)(E)(ii)(I), we expect a response within ten (10) working days of your receipt of this request. If this request is denied in whole or in part, we expect a detailed justification for withholding the records. We also request any segregable portions of records that are otherwise not expected to be disclosed by EPA in response to this request. **Finally, we request that any documents responsive to this request be released by EPA to Friends of the Earth on a rolling basis** rather than EPA holding all of the documents for a one-time release. Friends of the Earth reserves the right to appeal any denial of this request.

Please contact us at the number(s) or email(s) listed below with any questions you may have about the materials we are requesting. Thank you for your immediate attention to this matter.

Sincerely,

Marcie Keever, Oceans & Vessels Program Director, (510)-900-3144, [mkeever@foe.org](mailto:mkeever@foe.org)